



Reprinted
February 25, 2009

HOUSE BILL No. 1388

DIGEST OF HB 1388 (Updated February 24, 2009 9:10 pm - DI 51)

Citations Affected: IC 31-25; IC 31-34; noncode.

Synopsis: Foster care and kinship care. Requires the department of child services (department) to apply for federal funding if the department receives state funding for the implementation of the kinship care navigator pilot projects. Requires the department to: (1) exercise due diligence to identify all blood and adoptive relatives of a child alleged to be a child in need of services who is taken into custody; and (2) provide certain notice to the blood and adoptive relatives of the child. Appropriates \$150,000 to the department for kinship care navigator pilot projects for each year of the biennium beginning July 1, 2009, and ending June 30, 2011.

Effective: July 1, 2009.

Summers

January 13, 2009, read first time and referred to Committee on Family, Children and Human Affairs.
February 17, 2009, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
February 19, 2009, amended, reported — Do Pass.
February 24, 2009, read second time, ordered engrossed. Returned to second reading. Re-read second time, amended, ordered engrossed.

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HB 1388—LS 7153/DI 110+



Reprinted
February 25, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1388

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-25-2-20, AS AMENDED BY P.L.3-2008,
2 SECTION 239, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: Sec. 20. (a) The department shall
4 collaborate with at least one (1) nonprofit community based agency to
5 develop a grant proposal for submission to potential funding sources,
6 including governmental entities and private foundations, to establish
7 a minimum of three (3) kinship care navigator pilot projects to assist
8 kinship caregivers with understanding and navigating the system of
9 services for children in out-of-home care.
10 (b) The proposal under subsection (a) must seek to do the following:
11 (1) Divide the whole state into the following three (3) regions:
12 (A) Northern Indiana.
13 (B) Central Indiana.
14 (C) Southern Indiana.
15 (2) Establish at least one (1) kinship care navigator pilot project
16 in each region described under subdivision (1) with each project
17 managed by a participating community based agency.

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(c) A person who acts as a kinship care navigator under the kinship care navigator pilot project shall be required to do the following:

- (1) Have an understanding of the various state agency systems serving kinship caregivers.
- (2) Work in partnership with local community service providers.
- (3) Track trends, concerns, and other factors related to kinship caregivers.
- (4) Assist in establishing stable, respectful relationships between kinship caregivers and department staff.

~~(d) The implementation of the kinship care navigator pilot projects is contingent upon receipt of nonstate or private funding for the pilot projects.~~

(d) If the department receives state funding for implementation of the kinship care navigator pilot projects, the department shall apply for applicable federal funding for costs associated with the kinship care navigator pilot projects.

(e) The department shall report annually to the:

- (1) legislative council in an electronic format under IC 5-14-6; and
- (2) governor;

on the implementation of the kinship care navigator pilot projects with recommendations on statewide implementation of the pilot projects beginning one (1) year after implementation of the pilot projects.

(f) The report under subsection (e) must:

- (1) provide data that demonstrates whether the kinship care navigator pilot projects reduced barriers of access to services by kinship caregivers;
- (2) identify statutory and administrative barriers for kinship caregivers; and
- (3) provide recommendations to reduce or eliminate the barriers to services without adverse consequences to children placed with kinship caregivers.

(g) This SECTION expires ~~January 1, 2011~~. **July 1, 2013.**

SECTION 2. IC 31-34-4-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. If a child alleged to be a child in need of services is taken into custody under an order of the court under this article, not later than thirty (30) days after the date the child is taken into custody, the department shall:**

- (1) exercise due diligence to identify all blood and adoptive relatives of the child, including any other adult relative suggested by a parent; and**

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(2) subject to exceptions due to family or domestic violence, provide notice to all the blood and adoptive relatives identified under subdivision (1) that includes the following information:

(A) A statement that the child has been or is being removed from the custody of the parent, guardian, or custodian of the child.

(B) An explanation of the options the blood or adoptive relative has under federal and state law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice under this section.

(C) A description of:

(i) the requirements to become a licensed foster family home; and

(ii) the additional services and support that are available for children placed in a foster family home.

(D) If the state participates in payments under kinship guardianship assistance agreements, a description of how the blood or adoptive relative of the child may subsequently enter into a kinship guardianship assistance agreement to receive payments.

SECTION 3. [EFFECTIVE JULY 1, 2009] (a) As used in this SECTION, "department" means the department of child services established by IC 31-25-1-1.

(b) As used in this SECTION, "projects" refers to kinship care navigator pilot projects established in accordance with IC 31-25-2-20.

(c) There is appropriated to the department one hundred fifty thousand dollars (\$150,000) from the state general fund to fund the projects for the state fiscal year beginning July 1, 2009, and ending June 30, 2010.

(d) There is appropriated to the department one hundred fifty thousand dollars (\$150,000) from the state general fund to fund the projects for the state fiscal year beginning July 1, 2010, and ending June 30, 2011.

(e) This SECTION expires July 1, 2011.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred House Bill 1388, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 33, after "July 1," delete "2011." and insert "**2013.**".

Page 3, delete lines 36 through 42.

Page 4, delete lines 1 through 34.

Page 4, line 35, reset in roman "(c)".

Page 4, line 35, delete "(d)".

Page 4, line 36, after "(b)" insert ",".

Page 4, line 36, delete "or (c),".

Page 5, line 3, reset in roman "(d)".

Page 5, line 3, delete "(e)".

Page 5, line 3, after "(a)" delete ",".

Page 5, line 3, reset in roman "or".

Page 5, line 3, delete "or (c),".

Page 5, line 15, reset in roman "(e)".

Page 5, line 15, delete "(f)".

Page 5, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 3. IC 31-27-4-13, AS AMENDED BY P.L.138-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) The department shall deny a license when an applicant fails to meet the requirements for a license. The department shall deny a license to an applicant who has been convicted of any of the following felonies:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1).
- (7) Domestic battery (IC 35-42-2-1.3).
- (8) Aggravated battery (IC 35-42-2-1.5).
- (9) Kidnapping (IC 35-42-3-2).
- (10) Criminal confinement (IC 35-42-3-3).
- (11) A felony sex offense under IC 35-42-4.
- (12) Carjacking (IC 35-42-5-2).
- ~~(13) Arson (IC 35-43-1-1).~~
- ~~(14)~~ (13) Incest (IC 35-46-1-3).
- ~~(15)~~ (14) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

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- ~~(16)~~ (15) Child selling (IC 35-46-1-4(d)).
- ~~(17)~~ A felony involving a weapon under IC 35-47 or IC 35-47.5.
- ~~(18)~~ A felony relating to controlled substances under IC 35-48-4.
- ~~(19)~~ An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.
- ~~(20)~~ (16) A felony that is substantially equivalent to a felony listed in subdivisions (1) through ~~(19)~~ (15) for which the conviction was entered in another state.

Except for crimes listed in subsections (b) and (c), the department may deny a license to an applicant who has been convicted of a felony that is not listed in this subsection.

(b) The department shall deny a license to an applicant if less than ten (10) years have elapsed since the date the applicant was convicted of any of the following felonies:

- (1) Reckless homicide (IC 35-42-1-5).
- (2) Battery (IC 35-42-2-1) as a Class C or Class D felony.
- (3) Criminal confinement (IC 35-42-3-3) as a Class C or Class D felony.
- (4) Arson (IC 35-43-1-1) as a Class A or Class B felony.
- (5) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(c) The department shall deny a license to an applicant if less than five (5) years have elapsed since the date the applicant was convicted of a felony relating to controlled substances under IC 35-48-4.

(d) An application for a license may be denied if the applicant has an employee or volunteer who has direct contact on a regular and continuous basis with children under the direct supervision of the applicant and who has been convicted of any of the following:

- (1) The following felonies:
 - (A) Murder (IC 35-42-1-1).
 - (B) Causing suicide (IC 35-42-1-2).
 - (C) Assisting suicide (IC 35-42-1-2.5).
 - (D) Voluntary manslaughter (IC 35-42-1-3).
 - (E) Battery (IC 35-42-2-1) as a Class A or Class B felony.
 - (F) Domestic battery (IC 35-42-2-1.3).
 - (G) Aggravated battery (IC 35-42-2-1.5).
 - (H) Kidnapping (IC 35-42-3-2).
 - (I) Criminal confinement (IC 35-42-3-3) as a Class B felony.
 - (J) A felony sex offense under IC 35-42-4.
 - (K) Carjacking (IC 35-42-5-2).
 - (L) Incest (IC 35-46-1-3).

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(M) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(N) Child selling (IC 35-46-1-4(d)).

(O) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(2) The following felonies if less than ten (10) years have elapsed since the date the employee or volunteer was convicted of the felony:

(A) Reckless homicide (IC 35-42-1-5).

(B) Battery (IC 35-42-2-1) as a Class C or Class D felony.

(C) Criminal confinement (IC 35-42-3-3) as a Class C or Class D felony.

(D) Arson (IC 35-43-1-1) as a Class A or Class B felony.

(E) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(3) A felony relating to controlled substances under IC 35-48-4 if less than five (5) years have elapsed since the date the employee or volunteer was convicted of the felony.

(4) Any other felony or misdemeanor relating to the health and safety of a child, unless the applicant is granted a waiver by the department to employ or assign the person as a volunteer in a position described in this subsection.

~~(b)~~ **(e)** The department shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

~~(c)~~ **(f)** An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection ~~(b)~~: **(e)**.

~~(d)~~ **(g)** An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

~~(e)~~ **(h)** An administrative hearing shall be held in accordance with IC 4-21.5-3.

~~(f)~~ **(i)** The department shall issue a decision not more than sixty (60) days after the conclusion of a hearing."

Page 6, delete lines 17 through 42.

Page 7, delete lines 1 through 14.

Page 9, line 11, reset in roman "a felony listed in IC 31-27-4-13 or had a".

Page 9, reset in roman line 12.

Page 9, line 13, reset in roman "IC 31-27-4-13 if committed by an adult."

Page 9, line 13, delete "any of the following:".

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Page 9, delete lines 14 through 42.

Page 10, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1388 as introduced.)

VANDENBURGH, Chair

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1388, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 21, delete "may" and insert "**shall**".

Page 7, line 32, reset in roman "(c)".

Page 7, line 32, delete "(d)".

Page 7, line 33, after "(b)" insert ",".

Page 7, line 33, delete "or (c),".

Page 7, line 40, reset in roman "(d)".

Page 7, line 40, delete "(e)".

Page 7, line 40, after "(b)" insert ",".

Page 7, line 40, delete "or (c),".

Page 8, line 11, reset in roman "(e)".

Page 8, line 11, delete "(f)".

and when so amended that said bill do pass.

(Reference is to HB 1388 as printed February 18, 2009.)

CRAWFORD, Chair

Committee Vote: yeas 18, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1388 be returned to second reading calendar for the purpose of amendment.

SUMMERS

HOUSE MOTION

Mr. Speaker: I move that House Bill 1388 be amended to read as follows:

Page 2, delete lines 34 through 42.

Delete pages 3 through 7.

Page 8, delete lines 1 through 11.

Delete page 9.

Page 10, delete lines 1 through 29.

Renumber all SECTIONS consecutively.

(Reference is to HB 1388 as printed February 20, 2009.)

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